

Shell agrees to pay \$2.2 million to settle suit

WED FEB - 8 1995
By Cecily Burt
STAFF WRITER

SAN FRANCISCO — In the state's first major victory to halt selenium pollution in San Francisco Bay, Shell Oil Co. will pay \$2.2 million to settle a lawsuit brought by citizens groups because the refinery consistently violated federal selenium discharge limits.

The California Public Interest Research Group and the Pacific Coast Federation of Fishermen's Associations filed suit in federal court in 1992 to force Shell to reduce selenium discharged into the Bay in waste water because the Regional Water Quality Control Board

failed to enforce the limits.

Shell spokeswoman Tomi Van de Brooke said the company decided to settle rather than pursue a prolonged and costly court battle even though it does not yet know how it will meet the reductions called for in the settlement.

"We still believe the water board had the authority to extend the deadline; it recognized that the technology was not available to reach those limits," she said. "Unfortunately, sometimes businesses have to choose a

Please see **Shell** A-10

and citizens groups are willing to

AT 8:00 AM ON:
CHANCEY BAILEY
The Oakland Tribune's Urban Affairs Editor

Salahuddin, PLA
high

costly penalty

Continued from A-9

bottom line. The attorneys were winning in this deal."

Although Shell is not the biggest oil producer among the six East Bay refineries, it discharges the highest amounts of selenium into the Bay.

The refinery produces an average of 4.1 pounds of selenium per day, down from a high of more than 7 pounds in early 1993. Under the settlement, it must incrementally reduce those amounts each year, reaching 2.13 pounds per day — the federal standards defined in the Clean Water Act — by August 1998.

Shell can be fined \$650,000 a year for each pound of selenium discharged that exceeds limits outlined in the settlement.

The regional board had set new lower selenium discharge limits for the oil companies in 1991 to comply with federal standards. It gave the refineries until December 1993 to meet them.

Shell, Unocal and Exxon failed to

meet the lower limits and sued the water board to stop implementation of the new standards.

In January 1994, the board extended the deadline until 1998 in exchange for a \$2 million payment by the oil companies to fund selenium research and mitigation.

But U.S. District Court Judge Thelton Henderson bolstered CALPIRG and PCFFA's suit when he refused in July 1994 to let oil companies use the water board's deadline extension as a defense against lawsuits brought by citizens under Clean Water Act standards.

Henderson also ruled on two separate occasions that Shell had violated the federal limits beginning in 1991 and almost continuously in 1992, 1993 and 1994.

Selenium is a naturally occurring trace element that is present in crude oil and is discharged in varying amounts as part of the oil refinery process. Shell uses raw oil products from the San Joaquin Valley that contain high levels of the element.

Selenium has been shown to cause deformities and reproductive problems in waterfowl, the most graphic accounts of which occurred at the Kesterson National Wildlife Refuge. Unsafe levels of selenium have been found in the estuary, prompting the EPA to designate portions of the Bay as toxic hot spots.

"The \$2.2 million penalty shows it doesn't pay to pollute the Bay. . . . and citizens groups are willing to take action to protect the resources we love," said Mary Raftery, environmental program director for CALPIRG.

The penalty will be distributed among 24 different organizations that are involved in environmental education, research and restoration of wetlands, fisheries and ecosystems damaged by pollution. The John Krautkraemer Memorial Fund for Bay-Delta restoration, established in memory of the Environmental Defense Fund attorney who died in January, will receive \$50,000.